

IN THE DISTRICT COURT OF THE STATE OF UTAH

First Judicial District

IN AND FOR THE COUNTY OF RICH

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HYRUM NEBEKER and FRANK K. :
NEBEKER, :

P l a i n t i f f s, :
:

vs. :

LAKEVIEW IRRIGATION COMPANY, : A F F I D A V I T
an unincorporated association :
transacting business under :
a common name, et al., :

D e f e n d a n t s. :

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STATE OF UTAH)
: ss.
COUNTY OF RICH)

HYRUM NEBEKER, being first duly sworn, deposes and says:

That he is one of the plaintiffs in the above named action which is pending in the above named court. That on the 29th day of April, 1935, the court entered its decree in said action adjudicating the rights of the parties thereto in and to the waters of Big Creek in Rich County, Utah; that said decree is on file in the office of the clerk of said court and is hereby referred to and made a part hereof by reference.

That said decree provides that each of the parties to said action who uses any of the waters of said creek shall install and maintain suitable and efficient headgates, controlling works, and measuring devices at his respective point of diversion and all water therein allotted and decreed shall be measured at the points of diversion provided therein. Said decree further provides that all such devices shall be of such design as to accurately measure the amount of water diverted in cubic feet per second or fraction thereof, and no water shall be diverted except through ditches or canals provided with such measuring and controlling devices.

That the defendants, Round Valley Dam and Canal Company, Meadowville Canal Company, Laketown Irrigation Company, Joseph Cheney,

Alfred Kearn, Dewitt Johnson, Lower Meadowville Canal Company, C. H. Alley and Andrew Mattson have failed and refused, and do now fail and refuse, to install any measuring devices at their respective points of diversion or at all, contrary to the express terms and provisions of said decree.

That by reason of said failure and refusal of said defendants to install measuring and controlling devices it is impossible for plaintiff to determine with accuracy and without unreasonable expense and trouble whether or not the terms of said decree are being complied with by said defendants.

That plaintiffs have installed a measuring and controlling device recommended and approved by a competent engineer.

W H E R E F O R E, affiant prays that an order issue from this court requiring said defendants, and each of them, to appear before this court on Wednesday, the 17th day of June, 1936, at 10:00 o'clock, A. M., at the courthouse at Randolph, Utah, then and there to show cause, if any there be, why said defendants should not be found in contempt of court for failure to comply with the terms of said decree, and punished accordingly.

Hyrum Webster

Subscribed and sworn to before me this 3rd day of June, 1936.

Amos B. Robinson
... NOTARY PUBLIC ...

Residence:

Laketown